Georgetown, Holy Cross, Indiana University, Lawrence, Leland Stanford, Massachusetts Institute of Technology, University of Missouri, University of Mount Allison, University of New Brunswick, New York University, Pennsylvania College, Tufts, Tulane University of Louisiana, Washington and Jefferson, Wesleyan University, University of Wooster.

INCRIMINATING QUESTIONS UNDER THE BANKRUPTCY ACT. — The recent case of *In re Rosser*, 96 Fed. Rep. 305 (Dist. Ct., Mo.) has picked a new flaw in the National Bankruptcy Act. *In re Scott*, 1 Am. Bank. Rep. 50 *acc.* An insolvent refused to answer certain questions before a referee on the ground that the answers might tend to incriminate him, relying on the Fifth Amendment to the Constitution. It was held that he might refuse to answer — § 7 of the Bankruptcy Act, that "no testimony given by him shall be offered in evidence against him in any criminal proceeding," notwithstanding. In the case of *Counselman* v. *Hitchcock*, 142 U. S. 547, it was held that one under investigation before a grand jury was protected from incriminating questions in spite of a statute (Revised Statues, § 860) which provided that no evidence given in a judicial proceeding could "be given in evidence or in any way used against him" in any subsequent proceeding. In a later case, *Brown* v. *Walker*, 161 U. S. 591, a statute more broadly framed against any use whatever of so-called incriminating evidence in or for later proceedings was held to do away with the possibility of incrimination, and so the application of the constitutional privilege, and a stubborn witness was refused a writ of *habeas corpus*. In spite of these decisions the clause which was inserted in the new Bankruptcy Act is weaker than the proviso which was discussed in *Counselman* v. *Hitchcock*, — it seems simply a bit of carelessness. The only operation it can have is to induce a bankrupt to make disclosures — it was intended to force him.

In England it has been held, since Lord Eldon in *Re Cossens*, 1 Buck. 531, that the common law privilege against self-incrimination is without application in Bankruptcy proceedings. *Re Smith*, 2 Deac. & Chit. 230; *Ex parte Reynolds*, 20 Ch. D. 294; Lowell, Bankruptcy, § 158. Since bankruptcy proceedings are an exception to the common law privilege against self-incrimination, might not the constitutional privilege be construed to have the same exception — especially in view of the fact that bankruptcy legislation is, in one aspect, favorable to the bankrupt? The English cases that established the exception do not seem, however, to antedate 1820, *Re Cossens*, *supra*, and the argument has never been raised in the United States.

THE VALIDITY OF FOREIGN CONTRACTS. — The law applied by the courts of England in the enforcement of foreign contracts, ever since the decision of *Jacobs* v. *Credit Lyonnais*, 12 Q. B. D. 589, has remained uncertain. So far as any definite rule is laid down, they determine the validity of the contract by the law of that jurisdiction which the parties intended should govern. Since such intent is rarely expressed, this rule without further elaboration is unserviceable. Therefore, after Lord Justice Bowen, in the case above cited, declared it unwise to lay down specific rules in a matter of such growing commercial importance, each succeeding case has been obliged to seek out its own decisive reason.